

NO PROTEST *FILED W*  
Release copies to District

Date *11/25/89*

Surname *[REDACTED]*

OCT 13 1989

Employer Identification Number: *[REDACTED]*

Key District: *[REDACTED]*

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code. For the reasons stated below, we conclude that you do not qualify for tax exemption under that section. Your protest rights are also explained below.

You were incorporated on *[REDACTED]*, in the State of *[REDACTED]* and organized to promote and incorporate hydraulically efficient spiral rib pipe drainage structures in public and private construction.

Your activities are aimed at achieving a better understanding in engineering acceptance of your particular pipe material, the spiral rib pipe. You state that the spiral rib pipe is a generic term for a pipe material that has patents but that the licensing has been made available at a reasonable cost to any manufacturer interested. Your activities will include research, which will be aimed at developing a better pipe product for public use and the development of case studies, specifications, and aids for engineers and contractors in the use of the spiral rib pipe. You state that the research may be sponsored, but that it is too early for specifics. You also plan to create an installation manual which will be distributed to colleges, universities, the American Association of General Contractors, city and county engineer groups, and other similar organizations.

You state that you plan to engage in research activities. You state that research will "probably" not be performed by a member, unless it is performed on a volunteer basis. Instead, your plans call for research to be performed by universities, schools of engineering, and the like.

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Your entire support is derived from membership dues, fees, interest, and assessments.

Section 501(c)(6) of the Code provides for the exemption of business leagues, chambers of commerce, and boards of trade not organized for profit and no part of the net earnings of which inures to the benefit of any private individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest, the purpose of which is to promote such interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade, and its activities should be directed to the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual members.

Rev. Rul. 83-164, 1983-2 C.B. 95, holds that an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer does not qualify for exemption under section 501(c)(6) of the Code. The ruling states that because the organization limits its activities to the users of a single patented product, the organization helps to provide a competitive advantage to the users of the product at the expense of the product's competitors. Therefore, the organization is promoting only a segment of the industry as opposed to one or more lines of business within the meaning of section 1.501(c)(6)-1 of the regulations.

Rev. Rul. 58-294, 1958-1 C.B. 244, holds that an organization which directs its activities toward furthering the business interests of dealers in a particular patented product, rather than toward the improvement of business conditions in one or more lines of business, does not qualify for exemption under section 501(c)(6) of the Code.

Rev. Rul. 67-77, 1967-1 C.B. 138, holds that an organization composed of dealers in a certain make of automobile in a designated area is organized and operated for the primary purpose of financing general advertising campaigns to promote, with funds contributed by dealer members, the sale of that automobile and, thus, is performing particular services for its members and is not exempt under section 501(c)(6) of the Code. Membership in the organization was restricted to dealers who hold franchises for the sale of a certain make of automobile in a designated area.

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Rev. Rul. 68-122, 1968-1 C.B. 263, states that the position of the Internal Revenue Service that organizations which promote a single brand or product within a line of business do not qualify for exemption from federal income tax under section 501(c)(6) of the Code.

Rev. Rul. 74-147, 1974-1 C.B. 136, holds that a nonprofit organization whose members represent diversified businesses that own, rent, or lease digital computers produced by various manufacturers, organized to improve the efficiency of its members' use of computers, qualifies for exemption under section 501(c)(6) of the Code. The primary objective of the organization is to provide a forum for the exchange of information which will lead to the more efficient utilization of computers by its members and other interested users, and thus improve the overall efficiency of the business operations of each.

The case of American Plywood Association v. United States, 267 F. Supp. 830 (1967) involved an association of plywood manufacturers which owned a trademark which was licensed for use only by its members. The advertising sponsored by the association did not contain the names of the individual manufacturers, but did refer to the trademark. The court found that the advertising was designed to promote the industry as a whole and that the trademark was only an incidental part of the advertising which extolled the virtues of plywood in general.

Rev. Rul. 70-80, 1970-1 C.B. 130, holds that a nonprofit trade association of manufacturers whose principal activity is the promotion of its members' products under the association's registered trademark does not qualify for exemption under section 501(c)(6) of the Code. The revenue ruling states that this case is distinguishable from American Association of Plywood Manufacturers v. United States, *supra*, in that the advertising of the association trademark in American Association of Plywood Manufacturers was found to be of minor importance and only an incidental part of the advertising that extolled the advantages of the industry product in general.

You are operated to promote the use of a single product, the spiral rib pipe, which exists within an industry and is subject to patents. Rev. Rul. 67-77, *supra*, holds that an organization which promotes a certain make of automobile which is sold by its dealer members is performing particular services for individuals and does not qualify for exemption under section 501(c)(6) of the Code. Rev. Rul. 83-164, *supra*, provides that if an organization limits its activities to the users of a single patented product, the organization helps to provide a competitive advantage to the

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users of the product at the expense of the product's competitors. Like the organizations in the above revenue rulings, you are promoting a single patented product, the spiral rib pipe, an item which is in direct competition with other types of piping. Your promotion of the spiral rib pipe provides a competitive advantage to your manufacturer-members over the manufacturers of other types of piping.

Unlike the organization in American Association of Plywood Manufacturers, supra, your promotion of the spiral rib pipe is not of minor importance. You are not promoting piping in general, instead, you are promoting your specific patented product, the spiral rib pipe. Therefore, you are more like the organization in Rev. Rul. 70-80, supra, which denied exemption to an organization whose principal activity is the promotion of its members' products under the association's registered trademark.

By promoting your members' patented products, you are performing particular services for your members in violation of section 1.501(c)(6)-1 of the regulations and may not be recognized as exempt under section 501(c)(6) of the Code.

Rev. Rul. 68-122, supra, states that an organization which promotes a single brand or product within a line of business does not qualify for exemption under section 501(c)(6) of the Code. In addition, Rev. Rul. 58-294, supra, holds that an organization which directs its activities toward furthering the business interests of dealers in a particular patented product, rather than toward the improvement of business conditions in one or more lines of business, fails to qualify for exemption under section 501(c)(6). Like the organizations in the above revenue rulings, your primary activity is the promotion of a single patented product, the spiral rib pipe. As such, you are promoting the interests of your manufacturer-members as opposed to the business interests of "one or more lines of business" within the meaning of section 1.501(c)(6)-1 of the regulations, and may not be recognized as exempt under section 501(c)(6).

You are distinguishable from the organization in Rev. Rul. 74-147, supra, in that whereas the organization in the revenue ruling promoted the use of computers generally, regardless of the type or brand of computer, your activities are limited to a very specific patented product which is in competition with other organizations' products within the piping industry.

Based on the foregoing, we hold that you do not qualify for exemption from federal income tax as an organization described

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in section 501(c)(6) of the Code. Accordingly, you are required to file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter, and must be signed by one of your principal officers. When sending a protest or other correspondence with respect to this case, you will expedite its receipt by placing the following symbols on the envelope: [REDACTED]. These symbols do not refer to your case, but rather to its location.

You also have the right to a conference in this office after your protest statement is submitted. If you desire a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to the key District Director, Los Angeles, California, which is your key district for exempt organization matters. Thereafter, if you have any questions about your federal income tax status, including questions concerning reporting requirements, please contact your key District Director.

Sincerely yours,

[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 1

CC: [REDACTED]

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Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[REDACTED]	[REDACTED]					
Surname	[REDACTED]	[REDACTED]					
Date	10/12/74	6-22-89					